REMARKS

By this amendment, claims 1-4, 17, 18, 26-31, and 35-48 are pending, of which claims 1, 2, 26, 29, 31, 35, 36, 39 and 41-44 are currently amended, and claims 49-52 are newly presented. Claims 5-16, 19-25, 32-34 and 45-48 have been canceled without prejudice or disclaimer. No new matter is introduced.

The Final Office Action mailed June 24, 2011:

(1)   indicated that the newly submitted claims 45-48 are directed to an invention that is independent or distinct from the invention originally claimed, and specified that, because an action on the merits for the originally presented claims had already been issued, the originally filed claims have been constructively elected by original presentation for prosecution on the merits, in accordance with 37 CPR 1.142(b) and MPEP § 821.03;

(2)   rejected claims 1-4, 17-19, 26, 28-30, 35-39 and 41-44 under 35 U.S.C. § 102(b) as anticipated by the *Windows 95 Operating System*; and

(3)   rejected claims 27 and 40 as obvious under 35 U.S.C. § 103(a) based on *Microsoft Disk Operating System* (*MS-DOS*) in view of *Martin* (US 6,337,681).

A.   Response to Election/Restriction Requirement of Claims 45-48

Applicants respectfully traverse the restriction requirement of amended claims 45-48 for the following reason.

MPEP §803 clearly states the following:

> If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

Applicants, therefore, respectfully submit that the restriction requirement of amended claims 45-48 was improper on the grounds that a search and examination of the entire application would

not place a serious burden on the Examiner.   In efforts to advance prosecution and reduce issues

for potential appeal, however, Applicants have canceled claims 45-48, and instead added new

claims 41-52, depending from independent claim 1.

B. <u>35 U.S.C. § 102(b) Rejection of Claims 1-4, 17-19, 26, 28-30, 35-39 and 41-44 Over *Windows 95 Operating System*</u>

Applicants respectfully traverse the 35 U.S.C. § 102(b) rejection of claims 1-4, 17-19, 26,

28-30, 35-39 and 41-44 over the *Windows 95 Operating System*, because all features of the

claims are not disclosed by the applied art.

Claims 1-4, 17-19, 26, 28-30, 35-39 and 41-44 stand rejected as allegedly anticipated by

Windows 95 Operating System.   To anticipate a claim, the reference must teach every element of

the claim.   MPEP § 2131.   "A claim is anticipated only if each and every element as set forth in

the claim is found, either expressly or inherently described, in a single prior art reference."

Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed.

Cir. 1987).   "The identical invention must be shown in as complete detail as is contained in the

... claim."   *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed.

Cir. 1989).   When imposing a rejection under 35 U.S.C. § 102, the Examiner is required to

specifically identify wherein an applied reference is asserted to identically disclose each and

every feature of a claimed invention, particularly when such is not apparent as in the present

case.   *In re Rijckaert, 9 F.3d 1531, 28 USPQ2d 1955 (Fed. Cir. 1993); Lindemann*

Maschinenfabrik GMBH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 USPQ 481 (Fed.

Cir. 1984).   Applicants submit that the § 102(b) rejection fails to satisfy this burden, because

Windows 95 Operating System fails to provide, disclose or suggest all features of the amended

claims, and thus the anticipation rejection cannot be sustained.

To advance prosecution and reduce issues for potential appeal, Applicants have provided clarifying amendments to independent claims 1 and 35. Specifically, independent claim 1 recites a method comprising "querying <u>a plurality of accessible memories of respective electronic gaming devices</u> for determining electronic games available for execution on the respective electronic gaming devices" and "generating a game directory having entries for one or more of the determined <u>electronic games that are common to at least two of the accessible memories of at least two respective electronic gaming devices</u>" which is not taught by the art of record. Further, independent claim 35 has been amended to recite similar features. No such features are disclosed or suggested by the *Windows 95 Operating System*.

The Office Action on page 3 states that:

Windows 95 had a command for generating a game directory (i.e., listing of games) on an electronic gaming device. Clicking on a folder icon opened the folder and caused it to show its content. If the folder was a directory, clicking on the folder would show the files in that directory. If the folder was a directory, clicking on the folder would show the files in that directory. Clearly, the folder could be a directory. This command queried an accessible memory (i.e., those files that are executable) on said electronic gaming device, and generating a game directory having entries for each electronic game which is determined- it listed the executable programs found on disk. As noted in the History of Windows (Assignee's own documentation) Windows 95 was published in 1995. Windows 95 supported networking. Thus with Windows 95, the user could get directories of games on multiple gaming devices.

Applicants respectfully disagree, and submit, however, that the directory or folder listing function of the *Windows 95 Operating System* (e.g., the Windows Explorer function) only provides a listing of the subfolders and files of the specified directory or folder, and certainly does not provide for **a determination of electronic games within a plurality of accessible memories of respective electronic gaming devices**, or **the generation of a game directory having entries the electronic games that are common to at least two of the accessible memories of at least two respective electronic gaming devices**, as presently claimed.

For example, execution of the Windows Explorer function of the *Windows 95 Operating System* for a particular folder on a particular disk drive (e.g., the c:\ hard disk) simply provides a listing of all subfolders and files contained within <u>only</u> the particular folder of the particular disk drive of the computer system on which the *Windows 95 Operating System* is running.   Further, with the *Windows 95 Operating System* (as with MSDOS), the Windows Explorer (or directory listing) function can be executed for only one specified folder/storage device at one time.   For example, executing the Windows Explorer function for the folder c:\My Documents\ results in a listing of the subfolders and files contained in <u>only</u> the specified folder (the My Documents folder on the c:\ drive of the particular computer).   Accordingly, even if a networking function of the *Windows 95 Operating System* facilitates the listing of the subfolders and files on a specified folder/drive of a networked computer, the function will still result in a listing of the subfolders and files <u>only on the specified folder/drive of the specified networked computer</u>. Applicants, therefore, submit that the *Windows 95 Operating System* does not disclose or provide a function for querying a plurality of accessible memories of respective electronic gaming devices for determining electronic games available for execution on the respective electronic gaming devices, as presently claimed.

<u>Moreover</u>, the *Windows 95 Operating System* also lacks the disclosure or provision of a function whereby, based on a querying a plurality of accessible memories of respective electronic gaming devices, for determining electronic games available for execution on the respective electronic gaming devices, the system generates a game directory having entries for one or more of the determined electronic games that are common to at least two of the accessible memories of at least two respective electronic gaming devices, as presently claimed.   Firstly, as presented above, the *Window 95 Operating System* lacks a function for determining the electronic games of a plurality of accessible memory devices of respective electronic gaming

devices, and thus it necessarily follows that the operating system would be incapable of generating a game directory having entries for the <u>determined</u> electronic games (i.e., it cannot determine such electronic games in the first place) that are common to at least two of the accessible memories of at least two respective electronic gaming devices. Secondly, even assuming (for the sake of argument) that the *Window 95 Operating System* could make such a determination of electronic games available for execution on the respective electronic gaming devices, there simply is no function within the *Window 95 Operating System* that provides for the generation of a new directory (e.g., a gaming directory) listing the electronic games that are common to at least two of the accessible memories of at least two respective electronic gaming devices. Applicants, therefore, submit that the *Windows 95 Operating System* does not disclose or provide a function for the generation of a game directory having entries the electronic games that are common to at least two of the accessible memories of at least two respective electronic gaming devices, as presently claimed.

For at least the foregoing reasons, therefore, Applicants submit that the *Windows 95 Operating System* fails to disclose or suggest the features of determining electronic games within a plurality of accessible memories of respective electronic gaming devices, and the generation of a game directory having entries the electronic games that are common to at least two of the accessible memories of at least two respective electronic gaming devices, as presently claimed, and thus fails to anticipate independent claims 1 and 35, or claims 2-4, 17-19, 26, 28-30, 36-39 and 41-48 depending therefrom. Applicants, thus, respectfully request withdrawal of the respective rejection under 35 U.S.C. §102.

C. **35 U.S.C. § 103(a) Rejection of Claims 27 and 40 Over *MS-DOS* In View Of *Martin***

Applicants respectfully traverse the 35 U.S.C. § 103(a) rejection of claims 27 and 40 over the *Windows 95 Operating System* in view of *Martin*, because all features of the claims are not disclosed by the applied art, either individually or in combination. The deficiencies of the *Windows 95 Operating System* are not cured by *Martin*.

The Office Action cites to *Martin* for the alleged disclosure of "wherein said game directory entries and said selection data are displayed as a whiteboard."

Accordingly, neither the *Windows 95 Operating System* nor *Martin* alone or in combination, satisfies all features of claims 27 and 40.

D. **New Claims**

New claims 49-52 depend from independent claim 1. As explained above, the features of claim 1 is absent from the applied art. Thus, based on their dependencies, claims 49-52 are also allowable; moreover, they are allowable on their own merits.

E. **Conclusion**

Therefore, the present application, as amended, overcomes the objections and rejections of record and is in condition for allowance. Favorable consideration is respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at (703) 519-9952 so that such issues may be resolved as expeditiously as possible.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made.   Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 504213 and please credit any excess fees to such deposit account.

Respectfully Submitted,

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